

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

*Mitchell*  
*R-11-II*  
31134

**FILE:** B-216326**DATE:** May 2, 1985**MATTER OF:** Rent Plus Housing Allowance

**DIGEST:** When two members entitled to and receiving housing allowances share a residence, their "rent plus" housing allowance must be paid at the sharer's rate regardless of the financial arrangements between the members. Although the regulations were not entirely clear in defining a sharer's entitlement, the fact that the Government is paying each member a housing allowance, although of different types, supports the conclusion that sharing arrangements should be taken into account even though costs may not, in fact, be shared so that sharers cannot manipulate the allowances to their advantage.

Two members of the uniformed services reside together in Hawaii where they are entitled to housing allowances. Controlling regulations require that when members share a residence the "rent plus" allowance is to be based on each member's equal share of the cost of quarters. In this case one member claims a "rent plus" housing allowance as an unaccompanied member (a non-sharer) on the basis that the other member was merely a guest and paid no expenses. This results in a higher "rent plus" allowance for the claimant. The other member received a housing allowance at a flat rate. We find that the member claiming the "rent plus" allowance is only entitled to a sharer's rate since the regulations do not, nor were they intended to, provide a distinction for the member not sharing in the expenses.<sup>1/</sup>

I

Housing allowances for members of the armed services stationed outside the United States or in Hawaii or Alaska

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<sup>1/</sup> This matter is the subject of a request for advance decision by Captain B. A. Schroeder, USAF, Accounting and Finance Officer, Headquarters 15th Air Base Wing (PACAF), Hickam Air Force Base, Hawaii, and has been assigned PDTATAC Control No. 84-10, by the Per Diem, Travel and Transportation Allowance Committee.

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are authorized by 37 U.S.C. § 405. Regulations implementing this broad authority are in Chapter 4, Part G, of Volume 1 of the Joint Travel Regulations. Housing allowances are of two types. One is called a housing allowance, the other is called a "rent plus" housing allowance. The housing allowance is based on an index of average housing costs in an area. This allowance is paid in a flat rate to a member and is not affected by the actual costs of housing that a member incurs. The "rent plus" allowance is based on actual costs incurred for living quarters. A ceiling limits the amount of allowance which may be paid. Cost factors used in arriving at the rent plus housing allowance include rent or purchase price, costs of utilities and recurring maintenance, and expenses of moving in and moving out. The member's entitlement to Basic Allowance for Quarters or a Family Separation Allowance (Type I) is subtracted from the cost of quarters to arrive at the amount of the rent plus allowance to be paid.

This actual cost-based allowance is prorated when members share a residence. When the rent plus system was made applicable to Hawaii, the flat rate housing allowance was phased out as members in receipt of that allowance who chose not to change to the rent plus program were transferred to other locations.

## II

Beginning in June 1982 when the rent plus housing allowance was first put into effect in Hawaii, an Air Force captain began receiving that allowance as an unaccompanied member who was not sharing a residence. In March 1983, the Accounting and Finance Officer became aware of the fact that the captain, who is male, was sharing his residence with a female enlisted member. She was eligible for a flat rate housing allowance during the period he was receiving the rent plus allowance under the hold-over provision applicable to individuals in receipt of such an allowance when the rent plus program was initiated. Since, as noted above, the computation of the amount paid under the rent plus system is based upon costs, a lower allowance is paid when two or more members share a residence. The Accounting and Finance Officer determined that the allowance paid the captain should have been calculated based on the fact that

he was sharing his quarters and commenced collection of the difference between the non-sharer's entitlement and the amount to be paid based on shared quarters. The two members involved were subsequently married and their allowance entitlements were recalculated.

The captain objects to the collection on the basis that, at the time he became entitled to the rent plus housing allowance on June 1, 1982, Volume 1 of the Joint Travel Regulations did not define "sharer." The definition of sharer was added to the regulations effective August 23, 1982. Additionally, he points out that in June 1982 all references in Volume 1 of the Joint Travel Regulations regarding sharing of quarters were to sharing the costs. He says that the member who resided in his residence was merely a guest, and did not pay costs, nor did she own any interest in his home or have any rights as a renter. As a result he contends that he is entitled to the allowance as a non-sharer at the unaccompanied rate.

### III

The captain is correct in stating that the governing regulations did not define "sharer" in June 1982, when the rent plus housing allowance was made applicable to the location in Hawaii which is involved in this case. But, effective August 24, 1982, 1 JTR paragraph M4300-3 was amended to include such a definition, which is:

"\* \* \* a member who is entitled to a housing allowance and is residing with one or more members of the Uniformed Services and/or one or more Federal civilian employees who are authorized a living quarters allowance."

Prior to the effective date of that amendment in 1 JTR paragraph M4300-3, the Per Diem, Travel and Transportation Allowance Committee had issued a message, in May 1982, which provided with respect to sharers that:

"For the purposes of rent plus calculations, derived rent for members is calculated by dividing purchase price of house by 120 and then by number of members. Consider members sharing equally regardless of percentage

of purchase price claimed by each member.  
Member can share without being named in sales agreement."

Additionally, local instructions implementing the rent plus program provided that payments to military members who were sharing a home would be based on each member's share of the rent or rental equivalent "computed by dividing the 'rent' by the number of military members in the home." This rule applied to members married to members and members sharing with other members.


As the captain notes, other sections of the Joint Travel Regulations in force in 1982 indicated that the actual amount of the cost shared was to be used to determine an individual's allowance. However, those provisions relate only to determining the amount of the Utility/Recurring Maintenance Allowance, which is only part of the total rent plus housing allowance. See 1 JTR paragraph M4301-3d. In June 1982 the regulations did not provide for the allocation of rent or purchase costs when sharing quarters was involved.

While the regulations in force in June 1982 may have been somewhat misleading, when sharing of rent was specifically considered by the Per Diem, Travel and Transportation Allowance Committee, members entitled to housing allowances who were living together as sharers were considered to have equal obligations to pay rent regardless of the financial arrangements between them. This is clear from the message issued in May 1982, and the regulation amendment issued in August of that year. Local instructions issued earlier adopted the same approach.

The fact that the Government is paying a housing allowance to each member, although in this case the allowances are of different types, supports the conclusion that the Government should not be obligated to pay the higher rate rent plus allowance where only one member assumes an obligation to pay the housing cost. Allowing this to happen would permit sharing members to manipulate the housing allowances to their advantage.

Since the controlling regulation did not provide for allocating rent or payments in lieu of rent on an actual

expense basis instead of sharing them equally and since it is clear that equal division of those costs was contemplated and is in keeping with the purpose of rent plus housing allowance, we conclude that the captain was not entitled to the rent plus as a non-sharer. His entitlement must be based on the sharer's computation for the period involved.

*for*   
Comptroller General  
of the United States